

REMARKS

In the Office Action mailed on October 13, 2004, claims 1-37 were rejected under 35 U.S.C. § 103(a) as being rendered obvious by U.S. Patent No. 6,260,021 to Wong et al. (referred to as “the Wong reference” or “Wong”) in view of U.S. Patent No. 4,899,292 to Montagna et al. (referred to as “the Montagna reference” or “Montagna”). After careful review of the Wong and Montagna references, claims 1-37 are believed to be clearly patentable over the proposed combination. However, Applicant has amended claims 12, 19, 36 and 37 to clarify certain aspects of the claims. Accordingly, Applicant respectfully traverses the rejection and requests reconsideration of the present application in view of the arguments below.

Legal Precedents

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (B.P.A.I. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988). One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

Furthermore, Applicant reminds the Examiner that, during patent examination, the pending claims must be given an interpretation that is *reasonable* and *consistent* with the specification. *See In re Prater*, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969); *see also In re Morris*, 44 U.S.P.Q.2d 1023, 1027-28 (Fed. Cir. 1997); *see also* M.P.E.P. §§ 608.01(o) and 2111. Interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *See In re Cortright*, 49 U.S.P.Q.2d 1464, 1468 (Fed. Cir. 1999); *see also* M.P.E.P. § 2111. That is, recitations of a claim must be read as they would be interpreted by those of ordinary skill in the art. *See Rexnord Corp. v. Laitram Corp.*, 60 U.S.P.Q.2d 1851, 1854 (Fed. Cir. 2001); *see also* M.P.E.P. § 2111.01.

Claimed Subject Matter

The present application is directed to a technique for generating and delivering reports regarding activities and operations of medical diagnostic facilities in a secure manner from a central repository. In the present application, each of the independent claims 1, 12, 19, 23, 29, 34, 35, 36 and 37 includes recitations relating to, *inter alias*, storing *operational data* of a medical facility in a first processing space and *exporting data to a second processing space separated from the first processing space*. Further, independent claims 1, 23, 29, 34 and 35 include recitations relating to, *inter alias*, the utilization of a *security device* between processing spaces to securely separate the processing spaces. Specifically, independent claim 1 recites:

- (a) storing data representative of operation of a medical facility in a data repository operative in a first processing space;
- ...
- (c) transmitting the accessed data to a second processing space separated from the first processing space by a security device.

Independent claim 12 recites:

- (a) storing data representative of activities of the medical diagnostic facility in a secure database operative in a first processing space;
- ...

(d) exporting the data file to a second processing space separated from the first processing space by a security device.

Similarly, independent claim 19 recites:

(a) storing data representative of activities of the medical diagnostic facility in a secure data repository operative in a first processing space;

...
(c) exporting the report data file from the first processing space to a second processing space securely separated from the first processing space, the second processing space being accessible by the medical diagnostic facility via a wide area network.

Independent claim 23 recites:

a secure data repository operative in a first processing space for storing data representative of activities of the medical diagnostic facility;

...
a second data repository operative in a second processing space securely separated from the first processing space for storing the desired data extracted by the data access program module.

Independent claim 29 recites:

means for storing data representative of operation of a medical facility, the means for storing operative in a first processing space;

...
means for transmitting the accessed data to a second processing space securely separated from the first processing space.

Independent claim 34 recites:

means for storing data representative of operation of a medical facility in a data repository operative in a first processing space;

...
means for transmitting the accessed data to a second processing space separated from the first processing space by a security device.

Independent claim 35 recites:

computer code stored on the at least one computer readable medium for carrying out the steps of storing data representative of operation of a medical facility in a data repository operative in a first processing space;

...

transmitting the accessed data to a second processing space separated from the first processing space by a security device.

Independent claim 36 recites:

computer code stored on the at least one computer readable medium for carrying out the steps of storing data representative of activities of the medical diagnostic facility in a secure database operative in a first processing space;

...

exporting the data file to a second processing space securely separated from the first processing space.

Finally, independent claim 37 recites:

computer code stored on the at least one computer readable medium for carrying out the steps of storing data representative of activities of the medical diagnostic facility in a secure data repository operative in a first processing space;

...

exporting the report data file from the first processing space to a second processing space securely separated from the first processing space, the second processing space being accessible by the medical diagnostic facility via a wide area network.

Accordingly, each of the independent claims 1, 12, 19, 23, 29, 34, 35, 36 and 37 includes recitations relating to storing *operational data* of a medical facility in a first processing space, *exporting that data to a second processing space separated from the first processing space*, and utilizing a *security device to securely separate* the processing spaces.

Cited references

In contrast to the claimed subject matter, the Wong reference describes a system used to resolve problems with a lack of uniform access to and interchange of associated medical image data. *See* Wong et al., col. 3, lines 17-23. To resolve the problems with non-uniform access to image data, the Wong reference teaches a three-tier information system architecture that allows clients at workstations 38 to receive medical *image* requests and display medical image objects to a user. *See* Wong et al., col. 3, line 61 to col. 4, line 15; col. 7, lines 23-27. In Wong, the medical image distribution system includes a medical *image* server 12 that communicates with the workstations 38 to request and view medical *image* information. *See* Wong et al., col. 8, lines 53-57. As such, the reference is simply directed to providing uniform access to medical images.

The Montanga reference is directed to a system for storing and displaying documents and associated graphical images in insurance estimation and service manuals. *See* Montanga, col. 2, lines 65-68. In Montagna, a computer system 20 may communicate with a central computer 437 to generate insurance estimation reports. *See id.* at Fig. 4; col. 7, lines 20-25. The system 20 may display hierarchical menus to identify the types of vehicles and parts damaged in an accident. *See id.* at Figs. 12a and b; col. 13, lines 10-32. The system 20 displays different costs, such as labor and parts, associated with the selected parts. *See id.* at col. 14, lines 50-67. To maintain an updated version of the part costs, the central computer 437 may be accessed to determine the different costs. *See id.* As such, the reference is simply directed to providing a web based insurance estimation documents.

Basis for the Rejection

In the rejection of the claims, the Examiner asserted that the claimed subject matter is shown by the Wong reference. However, the Examiner admitted that the Wong reference fails to explicitly teach certain features of the independent claims. As an

example, the Examiner admitted that the Wong reference fails to explicitly teach 1) the claimed accessing of data from the repository to populate a report; 2) the claimed transmitting of the accessed data to a second processing space separated from the first processing space; and 3) the claimed generating of the report in the second processing space based upon the transmitted data, which are features recited in claim 1. *See* Office Action, pp. 3-4. In an attempt to cure these deficiencies, the Examiner relied upon the Montagna reference.

However, despite the Examiner's assertions, the Wong and Montagna references cannot render the claimed subject matter obvious because the references, alone or in combination, fail for at least three reasons. First, the Wong and Montagna references do not disclose a first and a second processing space. Second, the Wong and Montagna references do not disclose utilizing a security device or providing secure separation *between* the processing spaces, which is recited in the independent claims. Third, the Wong and Montagna references do not disclose data associated with the *operation or activities of a medical facility*, which is recited in each of the independent claims. Accordingly, the Applicant respectfully submits that the Wong and Montagna references cannot render the claims obvious, as discussed below.

The References do not Disclose a *First and a Second Processing Spaces*

With regard to the first point, the Wong and Montanga references do not disclose a first and second processing space. With regard to the Montanga reference, the Examiner appears to have misconstrued the DRAM 72 and SRAM 78 of the Montanga reference and the database 62 of Wong as *processing space*. Specifically, in the rejection, the Examiner asserted that the "first processing space" corresponds to a central computer 437 in Montagna, while the "second processing space" corresponds to DRAM 72 and SRAM 78. However, Applicant notes the DRAM 72 and SRAM 78 are not a processing space. The DRAM 72 is dynamic random access memory, which does not process any information, but is utilized simply as a storage location. *See* Montanga, col. 6, lines 53-

56. Similarly, the SRAM 78 is static random access memory (SRAM) 78 that is utilized only to store information, such as calibration constants, for example. *See* Montanga, col. 7, lines 16-19. Clearly, the DRAM 72 and the SRAM 78 are not a processing space, but are simply memory storage devices incapable of processing any data. Indeed, on the contrary, these memory devices would be in the same processing space as the central computer 437. Therefore, the Examiner has misconstrued the DRAM 72 and SRAM 78 of the Montanga and misapplied the reference against the claimed subject matter.

Furthermore, with regard to the Wong reference, the Examiner even admitted that the Wong reference does not explicitly teach a second processing space. However, the Examiner asserted that the middleware database 62 corresponds to the first processing space of the claims. Despite this assertion, Applicant notes the middleware database 62 is simply a storage device or group of storage devices in the Wong reference. *See* Wong, col. 12, line 65 – col. 13, line 5. Clearly, the middleware database 62 is not processing space, but would exist in the same processing space as the medical image server 12 and other associated client workstations. Therefore, the Examiner has misconstrued the middleware database 62 of Wong and misapplied the reference against the claimed subject matter.

References Fail to Teach Security Device Securely Separating the Processing Spaces

With regard to the second point, even if the Examiner construed the system 20 and the centralized computer 437 of Montagna as separate processing spaces, the Wong and Montagna references do not disclose or suggest utilizing a security device *separating* the processing spaces, as is recited in claims 1, 12, 34 and 35, or *securely separating* the processing spaces, as recited in claims 19, 23, 29, 36 and 37. In the rejection, the Examiner asserted that the Wong reference teaches transmitting data by a security device based on various passages. Additionally, as noted above, the Examiner admitted that the Wong reference fails to explicitly teach transmitting the data to a second processing space

separated from the first processing space. Accordingly, the Examiner relied upon the Montagna reference to provide the second processing space and its secure separation from a first processing space. However, despite the Examiner's assertion, the Wong and Montagna references do not disclose this subject matter.

To begin, the Wong reference, as admitted by the Examiner, does not explicitly teach a first *and* a second processing space. Applicant agrees with the Examiner's admission. While the Wong reference may discuss a security object server and security protocols, it does not disclose or suggest utilizing a security device *between* a first and a second processing space to separate the processing spaces. In fact, the security object server 60 is part of the medical image server 12 along with the middleware database 62, which the Examiner asserted was the first processing space. *See* Wong et al., Fig. 2; col. 9, lines 34-37; col. 10, lines 12-27. This security object server 60 is a software component that simply provides access control to the image data from the client workstations 38. Accordingly, because the security object server 60 merely provides password security and is actually part of the medical image server 12, it is not a security device that separates any processing spaces or that provides secure separation between the client workstations 38 and medical image server 12. Similarly, the security protocols discussed by Wong are utilized to insure confidentiality of the medical images. *See* Wong et al., col. 8, lines 59-64. That is, the security protocols are utilized by client workstations 38 and the medical image server 12 in the communication of the medical image data. Because both the client workstations 38 and medical image server 12 use these protocols, the security protocols are not a security device that separates any processing spaces or that is even able to provide secure separation between the client workstations 38 and medical image server 12.

Further, Montagna fails to cure the deficiencies of the Wong reference. In Montagna, a system 20 may communicate with a centralized computer 437. *See* Montagna, Fig. 4; col. 7, lines 20-24. However, the Montagna reference does not

mention providing a security device between any processing spaces or even securely separating any processing spaces. As such, because the Montagna reference does not disclose or suggest the claimed subject matter, the Montagna reference fails to cure the deficiencies of the Wong reference.

References Fail to Teach *Data Associated with the Operation or Activities of a Medical Facility*

With regard to the third point, the Wong and Montagna references do not disclose or suggest data associated with the *operation or activities of a medical facility securely*, as is recited in claims 1, 12, 19, 23, 29, 34, 35, 36 and 37. In the present application, it is noted that the data within medical diagnostic facilities is highly sensitive. *See Application*, page 2, lines 29-31. These data may be utilized to populate reports, such as management reports, while maintaining the data repository in a secure processing space. *See Application*, page 3, lines 23-31. As such, the data associated with the *operation or activities of a medical facility* is special data that is unique to medical facilities.

In the rejection, the Examiner asserted that the medical image data corresponds to the claimed medical facility operations or activities data. However, despite the Examiner's assertion, the Wong reference is not related to *operational aspects or activities of a medical facility*. In fact, the system in Wong is used to resolve problems with a lack of uniform access to and interchange of associated medical image data. *See Wong et al.*, col. 3, lines 17-23. By utilizing this system, medical *image* data associated with medical image data may provided in a uniform manner to other workstations 38. *See Wong et al.*, col. 3, line 61 to col. 4, line 30. That is, the Wong reference simply relates to a mechanism for uniformly distributing medical image files. In fact, the Wong reference does not even mention any operational aspects or activities of the medical facility. As such, the Wong reference does not disclose this claimed subject matter.

Further, while the Examiner did not rely on the Montagna reference to disclose this claimed subject matter, it fails to cure the deficiencies of the Wong reference. As noted above, the Montagna reference is directed to a system for storing and displaying documents and associated graphical images in insurance estimation and service manuals. *See* Montagna, col. 2, lines 65-68. In Montagna, a computer system 20 is utilized to display hierarchical menus associated with the types of vehicles and the respective parts. *See id.* at Figs. 4, 12a and b; col. 13, lines 10-32. Accordingly, the Montagna reference is devoid of any mention of a *medical facility*, much less data associated with the *operational aspects or activities of a medical facility*. As such, because the Montagna reference does not disclose or suggest the claimed subject matter, the Montagna reference fails to cure the deficiencies of the Wong reference.

Because the Examiner has failed to show that the cited references disclose *all* of the claimed elements, the Examiner has failed to establish a *prima facie* case of obviousness. Therefore, Applicant respectfully requests the Examiner to withdraw the rejection and allow claims 1-37.

Conclusion

In view of the remarks and amendments set forth above, Applicant respectfully requests allowance of the pending claims 1-37. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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